

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3136 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAMESHCHANDRA B. KAHDHAR

Versus

CENTRAL EXCISE AND CUSTOMS DEPTT.

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Appearance:

MR MB GANDHI for Petitioner

MR BB NAIK for Respondent No. 1, 2

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

The petitioner-Rameshchandra B Khandor has filed this Special Civil Application under Article 226 of the Constitution of India seeking direction to fix the rent of the subject premises rented out to the respondents as per the assessment made by the CPWD for the period prior to 9.9.1993. A further prayer has been made that a direction may be given to the respondents to make regular

payment for the year 1992 and subsequent years as per the rent assessed by the CPWD.

2. It is not in dispute that under the certificate dated 9.9.1988, the CPWD has assessed rent of the subject premises at Rs. 5873/- per month and as per the prevailing market rate of Rs. 6359/-. It would, thus, be convenient to fix the rent taking the average of the aforesaid two figures which comes to Rs. 6,116/- for the period 1988-92. It is stated that the petitioner has been paid certain amount towards rent under the interim order of this Court. The respondents have no objection for making the payment of rent to the aforesaid rate.

3. Under the Certificate dated 8.9.1993, the assessment has been made as per the departmental instruction at Rs. 8,398/- and as per the market rate Rs. 13,827/-, the average of which comes to Rs. 11,113/- for the period 1992-93.

4. The CPWD has similarly issued another certificate dated 17.12.1994 making assessment of the subject premises as per the departmental instructions at Rs.11,225/- and the market rate at Rs. 12,083/-, the average of which comes to Rs.11,704/- per month.

5. In view of the aforesaid, this Special Civil Application is allowed and the respondents are directed to fix the rent of the subject premises under the different certificates referred to above for the different periods and make the payment of any amount due to the petitioner. If any amount has been paid in excess, the same shall be adjusted against the rent of the subsequent years. The respondent shall regularly pay the average rent at the rate of Rs.11,704/- for a period of 5 years as per the agreement between the parties. The respondent is directed to carry out the directions of this Court within a period of two months from the date of receipt of the writ.

Rule made absolute to the aforesaid extent with no order as to costs.

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